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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/497,284	02/02/2000	Philemon L. Bruner	BRUE:035	7307

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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 06/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/497,284

Applicant(s)

BRUNER ET AL.

Examiner

Jeffrey A. Shapiro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 24-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. It is unclear in Claim 1, what is meant by line c, particularly the phrase "connection said pivotal portion".

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer et al (US 5,769,200). Meyer et al discloses the following.

As described in Claims 1 and 13;

1. a coins separator (10) and rejector body (18, 20, 22, 24 and 28) having one or more downwardly inclined coin races formed therein (see figure 1),
2. said rejector body having an upstream portion and a downstream portion;

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3. said coin races further comprising a first wall and a second wall;
4. at least a portion of one of said walls in pivotal connection with said rejector body;
5. one or more sensors (A and B) located in said upstream portion of said rejector body;
6. an actuator (27) in mechanical connection with said pivotal portion of said race wall;
7. a processor (79) in electrical communication with said sensors and with said actuator;

As described in Claim 2;

8. a second sensor (A or B) located in said downstream portion of said rejector body;

As described in Claims 4-6 and 15-17;

9. said actuator is a solenoid (27);
10. said solenoid is a latching solenoid;
11. said solenoid is a wound cap solenoid;

(Note that whether or not a latching solenoid, wound cap solenoid or basic solenoid, the apparatus of Meyer et al still has substantially the same structure and functions in substantially the same way as Applicant's apparatus.)

***Claim Rejections - 35 USC § 103***

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 7-11, 14 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al in view of Mercurio. Meyer et al does not expressly disclose the following.

As described in Claims 12 and 23;

18. a light coin spring detector positioned in the downstream portion of said rejector body;

Mercurio discloses the following.

As described in Claims 12 and 23;

18. a light coin spring detector (70) positioned in the downstream portion of said rejector body;

Both Meyer et al and Mercurio are analogous art because they both concern coin handling.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have added a light coin spring detector in the downstream passageway of the rejector body.

The suggestion/motivation would have been to provide a further layer of security to insure correctly weighted coins are allowed to pass through to the coin box. See Mercurio, abstract, last 7 lines, in particular.

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Claims 3 and 14 read as follows;

9. said actuator is an electric motor;

Regarding Claims 3 and 14, note that an electric motor used as an actuator of the rejector bodies is considered to be a functional equivalent of a solenoid. It would be expedient for one ordinarily skilled in the art to use electric motors or stepper motors to actuate the rejector bodies since they may provide finer control of the rejectors or may take up less space than solenoids.

Claims 7-11 and 18-22 read as follows;

13. at least one of said sensors is an induction coil;
14. at least one of said sensors is a hall effect sensor;
15. at least one of said sensors (A) is a photoelectric sensor;
16. at least one of said sensors is an LED sensor;
17. at least one of said sensors is an IR (infrared) sensor;

Regarding Claims 7-11 and 18-22, note that induction coils, hall effect sensors, photoelectric sensors, LED sensors and IR sensors are considered to be functional equivalents of each other. It would be expedient for one ordinarily skilled in the art to provide any one or a combination of these sensors in order to sense coins or other items that may be jamming a coin path.

Therefore, it would have been obvious to combine Meyer et al and Mercurio to obtain the invention as specified in Claims 3, 7-11, 14 and 18-23.

### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-22 of U.S. Patent No.

5,988,349 in view of Meyer et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both describe a coin separator and rejector body having one or more sensors located unstream and downstream of said rejector body, the system controlled by a processor.

10. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-25 of U.S. Patent No.

6,155,399 in view of Meyer et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both describe a coin separator and rejector body having one or more sensors located unstream and downstream of said rejector body, the system controlled by a processor.

11. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent No. 5,647,470 in view of Meyer et al. Although the conflicting claims are not identical, they are not

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patentably distinct from each other because they both describe a coin separator and rejector body having one or more sensors located unstream and downstream of said rejector body, the system controlled by a processor.

12. Claims 1-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application No. 09/339,011 in view of Meyer et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both describe a coin separator and rejector body having one or more sensors located unstream and downstream of said rejector body, the system controlled by a processor.

This is a provisional obviousness-type double patenting rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-2571 for regular communications and (703)308-2571 for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Jeffrey A. Shapiro  
Patent Examiner,  
Art Unit 3653



DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
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June 17, 2002